

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CLARKWESTERN DIETRICH BUILDING
SYSTEMS, LLC

Employer

and

Case 01-RC-264014

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY,
ALLIED INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, AFL-CIO-CLC
Petitioner

ORDER

The Employer's Emergency Motion to Stay the Election is granted. The Employer's Request for Review of the Acting Regional Director's Decision and Direction of Election also is granted, as it raises substantial issues warranting review.

JOHN F. RING, CHAIRMAN

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

Dated, Washington, D.C., September 16, 2020.

MEMBER McFERRAN, dissenting.

Unlike my colleagues, I would deny the Employer's requests for a stay and review of the Acting Regional Director's decision to order a mail-ballot election due to the threat posed by the COVID-19 pandemic. It is well established that the mechanics of an election, including whether it is to be conducted by mail ballot, are within the discretion of the Regional Director. See *San*

Diego Gas & Electric, 325 NLRB 1143, 1144 (1998). Here, the Acting Regional Director fully considered all the relevant circumstances, including those supporting the Employer’s argument for a manual election, but on balance concluded that a mail-ballot election was warranted in this particular case. Although individual Board Members might have struck the balance differently were they deciding the case in the first instance, that is not the applicable standard. Applying the correct standard, there is no basis to conclude that the Acting Regional Director “clearly abused” his discretion. *National Van Lines*, 120 NLRB 1343, 1346 (1958). Accordingly, I dissent.

Dated, Washington, D.C., September 16, 2020.

Lauren McFerran, Member

NATIONAL LABOR RELATIONS BOARD